

SENATE BILL REPORT

E2SHB 1206

As Reported by Senate Committee On:
Judiciary, March 23, 2011

Title: An act relating to harassment against criminal justice participants.

Brief Description: Concerning harassment against criminal justice participants.

Sponsors: House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Dahlquist, Hurst, Pearson, Harris, Parker, Lytton, Rivers, Johnson, Taylor, Wilcox, Ross, Kelley, Ladenburg, Armstrong, Dammeier, Frockt and Schmick).

Brief History: Passed House: 3/03/11, 98-0.

Committee Activity: Judiciary: 3/18/11, 3/23/11 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Baxter, Carrell, Hargrove, Kohl-Welles, Regala and Roach.

Staff: Juliana Roe (786-7438)

Background: A person commits the crime of harassment if (1) the person without lawful authority knowingly threatens to (a) cause bodily injury immediately or in the future to the person threatened or to any other person; (b) cause physical damage to the property of a person other than the actor; (c) subject the person threatened or any other person to physical confinement or restraint; or (d) maliciously do any other act that is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and (2) the person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. Words or conduct includes the sending of an electronic communication.

Criminal harassment is generally a gross misdemeanor. However, the crime is a seriousness level III, class C felony offense if the offender has a previous conviction for harassment; or a harassment related offense against the same victim, members of the victim's family, or persons named in a no contact or no-harassment order; or the offender committed the crime by threatening to kill that person or another person.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Address Confidentiality Program (ACP) is a program that allows victims of domestic violence, sexual assault, or stalking to have an alternative address designated as his or her substitute mailing address. The ACP also allows state and local agencies to comply with requests for public records without disclosing the confidential location of a victim.

Summary of Bill: A person is guilty of harassment, if the person harasses:

- a criminal justice participant who is performing his or her official duties at the time of the offense; or
- a criminal justice participant because of an action taken or decision made by the criminal justice participant during the performance of his or her duties.

The threat that a criminal justice participant receives must create a fear that a reasonable criminal justice participant would have under all the circumstances. Threatening words do not constitute harassment if it is apparent to the victim that the offender does not have the present and future ability to carry out the threat.

Harassment of a criminal justice participant is a seriousness level III, class C felony offense and carries a sentence of one to three months for a first-time offender. A criminal justice participant includes any federal, state, or local law enforcement agency employee; federal, state, or local prosecuting attorney or deputy prosecuting attorney; staff member of any adult corrections institution or local adult detention facility; staff member of any juvenile corrections institution or local juvenile detention facility; community corrections officer, probation, or parole officer; member of the Indeterminate Sentence Review Board; advocate from a crime victim/witness program; or defense attorney.

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A criminal justice participant who is a target for threats or harassment and any family members residing with the criminal justice participant, are eligible for the ACP. It is a class C felony offense for a person to knowingly provide false or incorrect information upon an application for the ACP stating that disclosure of the applicant's address would endanger the safety of the criminal justice participant or the criminal justice participant's family.

Beginning on December 1, 2011, and annually thereafter, the Sentencing Guidelines Commission (SGC) must report to the appropriate committees of the Legislature on the number of prosecutions of harassment crimes against criminal justice participants.

The entire act relating to increasing the penalty for harassment of a criminal justice participant, the ACP, and the requirement of the SGC to produce an annual report on the number of prosecutions of harassment crimes against criminal justice participants, expires on July 1, 2018.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill addresses, among other things, when an officer is retaliated against while doing his or her job.

This bill does not apply to judges as they are covered elsewhere in statute. Making threats against a judge in any form, whether or not the judge feels as though the person will carry out the threat, is a felony.

For this to apply, the criminal justice participant must believe or have a legitimate fear that there is a real threat that will be carried out.

An officer recently experienced harassment in her line of work. She was assigned to a domestic violence unit. The suspect had been stalking and harassing his ex-wife. During her investigation of the suspect, other criminal justice agencies contacted her, regarding the suspect, to let her know that the suspect was a convicted rapist in Florida, and was suspected of murder, arson, and explosives in other states. Throughout the investigation, the suspect followed the officer on four occasions. He left recorded messages on the police line, followed her when she met up with friends downtown, followed her driving out of town on I-90, and followed her to a restaurant while bearing a gun. On all of these occasions, the suspect threatened to kill her and did things that made her fear for her safety. This series of events has changed her life. She fears for her safety and that of her family and neighbors. She now carries her weapon with her at all times and sleeps with it next to her bed. This bill will help other people in her position.

CON: This bill has been improved since it left the House. The sections regarding the ACP are fine, however we do not believe that the rest of the bill is necessary. We believe that the current statute already provides a solution to the perceived problem. To make the crime a felony from the get go is not appropriate. There is no deterrent in doing that. These situations are generally spontaneous, not planned out in advance.

Persons Testifying: PRO: Representative Dahlquist, prime sponsor; Stormi Koerner, Spokane Police Department; Andy Miller, Benton County Prosecuting Attorney; Don Pierce, Washington Association of Sheriffs and Police Chiefs.

CON: Michael Hanby, Washington Defenders Association, Washington Association of Criminal Defense Lawyers.